

date of the full statutory term, as shortened by any Terminal Disclaimer filed prior to grant, of the earliest to expire of U.S. Patents Nos. 6,375,685 and 5,885,303. The filing of a Terminal Disclaimer simply serves the statutory function of removing the rejection of double patenting and raises neither presumption nor estoppel on the merits of the rejection, *Quad Environmental Technologies v. Union Sanitary District*, 20 U.S.P.Q.2d 1392 (Fed. Cir. 1991). It is therefore submitted that the rejections under the judicially created doctrine of obviousness-type double patenting have been overcome. Reconsideration is respectfully requested.

Claims 21 and 23-33 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Hendrix et al U.S. Patent No. 4,530,874. The Examiner asserted that Hendrix et al teach fabrics with a glossy smooth appearance and enhanced hand wherein curable silicone polymers may be used in the finishing composition and crosslinked with a crosslinking agent such as formaldehyde. The Examiner asserted it would have been obvious to use such a cross-linked silicone polymer in the fabric treating compositions of Hendrix et al.

However, as will be set forth in detail below, Applicants submit that the methods of treating a textile defined by claims 21 and 23-33 are nonobvious over and patentably distinguishable from the teachings of Hendrix et al. Accordingly, this rejection is traversed and reconsideration is respectfully requested.

More particularly, as defined by claims 21 and 24, the invention is directed to methods for treating a textile comprising fibers selected from the group consisting of cellulosic fibers, protein fibers and mixtures thereof. The methods comprise the steps of contacting the textile with a liquid composition comprising formalin in an amount sufficient to provide from 0.56% to 7.4%, on weight of fabric, formaldehyde, and heat curing the textile. The formalin comprises formaldehyde and water, the textile is provided with a

silicone elastomer, and the treated textile is unresinated. Claim 24 further specifies that the textile is first moistened with a moistening solution comprising water.

Hendrix et al disclose a process for producing chintz fabric exhibiting a glossy smooth appearance. Hendrix et al teach that a finishing composition is applied to the fabric, the fabric is dried without curing, and the dried fabric is calendered with a heated calendar roll to form a smooth glossy surface. The finishing composition contains a silicone polymer, a catalyst and a cross-linking agent, various examples of which are disclosed and include formaldehyde and aminoplast resins. The aminoplast resins are disclosed as especially suitable (column 5, lines 56-59) and are employed in all of the examples of Hendrix et al. In contrast, as noted above, in the methods of claims 21 and 24, the treated textile is unresinated. Applicant finds no teaching or suggestion by Hendrix et al of methods for treating a textile wherein the treated textile is unresinated.

In order to render a claimed invention obvious, the prior art must enable one skilled in the art to make and use the claimed invention, *Motorola, Inc. v. Interdigital Tech. Corp.*, 43 U.S.P.Q.2d 1481, 1489 (Fed. Cir. 1997). The mere listing of formaldehyde as one of numerous cross-linking agents does not, with the remainder of the Hendrix et al teachings employing aminoplast resins, provide an enabling disclosure of the methods of claims 21 and 24 and does not place the methods of these claims in the possession of the public. Thus, Hendrix et al do not render the methods of claims 21 and 24, or claims 23 and 25-33 dependent thereon, obvious.

It is therefore submitted that the methods defined by claims 21 and 23-33 are nonobvious over and patentably distinguishable from Hendrix et al, whereby the rejection under 35 U.S.C. §103 based on Hendrix et al has been overcome. Reconsideration is respectfully requested.

Finally, claims 21 and 23-33 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Alberts et al U.S. Patent No. 4,464,506. The Examiner asserted that Alberts et al teach organopolysiloxane finishing agents for fabrics wherein polymerization of the organopolysiloxanes may be started with redox initiators such as formaldehyde. The Examiner asserted it would have been obvious to use formaldehyde to initiate the polymerization of organopolysiloxane finishing agents.

However, as will be set forth in detail below, Applicants submit that the methods of treating a textile defined by claims 21-23 and 25-30 are nonobvious over and patentably distinguishable from the teachings of Alberts et al. Accordingly, this rejection is traversed and reconsideration is respectfully requested.


The methods of treating a textile defined by claims 21 and 24 are discussed in detail above. These methods are not rendered obvious by Alberts et al. That is, Alberts et al teach a polymer dispersion suitable for finishing textiles. The dispersion comprises water, a dispersing auxiliary and a polymeric product. The polymeric product employed in the dispersion is produced by subjecting an organopolysiloxane containing vinyl groups, an organopolysiloxane containing Si-H groups, and a polymerizable vinyl monomer to free radical polymerization. As noted by the Examiner, Alberts et al disclose at column 4 that a redox initiator which may be used to start polymerization may comprise, inter alia, formaldehyde. However, Applicants find no teaching or suggestion by Alberts et al relating to the methods as defined in claims 21 and 24 wherein a textile is contacted with a liquid composition comprising formalin in an amount sufficient to provide from 0.56% to 7.4%, on weight of fabric, formaldehyde. To the contrary, one skilled in the art will appreciate that the formaldehyde employed as a redox initiator in the siloxane polymerization will be substantially consumed therein and that the dispersion containing the polymeric product will

not provide formaldehyde for contact with a textile in an amount as required by the present claims.

Moreover, as Applicants find no teaching or suggestion by Alberts et al for treating a textile with formaldehyde or for crosslinking rayon fibers with formaldehyde, it would not be obvious for one of ordinary skill in the art to modify the disclosed polymer dispersion or the textile finishing process of Alberts et al to include a step of contacting the textile with formaldehyde in an amount as required by the methods of claims 21 and 24. In view of these deficiencies in the teachings of Alberts et al, Alberts et al do not enable one skilled in the art to make and use the presently claimed methods and therefore do not render the presently claimed methods obvious. It is therefore submitted that the rejection of claims 21 and 23-33 under 35 U.S.C. §103 based on Alberts et al has been overcome. Reconsideration is respectfully requested.

It is believed that the above represents a complete response to the rejections under 35 U.S.C. §103 and under the judicially created doctrine of obviousness-type double patenting, and places the present application in condition for allowance. Reconsideration and an early allowance are requested.

Respectfully submitted,

  
Rebecca A. Brown, Reg. No. 42,452  
DINSMORE & SHOHL LLP  
1900 Chemed Center  
255 E. Fifth Street  
Cincinnati, Ohio 45202  
(513) 977-8200